IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS SAN ANTONIO DIVISION

ANTHONY BARTEE,	
TDCJ No. 999282,)
Plaintiff,)
V.) CIVIL ACTION NO. SA-12-CA-420-FB
SUSAN D. REED, Bexar County)
District Attorney,)
Defendant)
Defendant.)

ORDER REGARDING LIMITED REMAND

The United States Court of Appeals for the Fifth Circuit ("Fifth Circuit") remanded this matter "for the limited purpose of determining in the first instance whether [plaintiff's 42 U.S.C. § 1983] case is now moot because "remaining [DNA] evidence has now been delivered to the Bexar County Criminal Investigations Laboratory and is 'in the process of being tested." (Fifth Circuit No. 70012, Per Curiam opinion filed May 29, 2012, p. 2). This Court initially made the determination that the case is not moot because the testing has not been completed. Court staff telephonically contacted counsel for plaintiff and defendant, who agreed with this assessment. In accordance with the limited remand from the Fifth Circuit, this Court determines that the case is not now moot because the testing of the remaining DNA evidence has not been completed.

It is so ORDERED.

SIGNED this 1st day of June, 2012.

FRED BIERY

CHIEF UNITED STATES DISTRICT JUDGE